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Mr. Steve Livingstone
Project Manager
U.S. Department of Energy
P.O. Box 45097
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Dear Mr. Livingstone:

Thank you for providing the opportunity to comment on the Department of Energy's (DOE) Draft Long-Term Stewardship Study. I am writing on behalf of the NGA Federal Facilities Task Force, which has worked with DOE since the passage of the Federal Facilities Compliance Act (FFCA) in 1992, to convey the general LTS concerns/principles enumerated below. In addition to these general comments, states will also file their individual concerns under separate cover.

We would like to commend the Department on its articulation of a strong framework through which important stewardship questions can be addressed. Additionally, the comprehensive approach the Department has taken in the study will allow the document to serve as an important reference for policymakers at the federal, state, and local level.

I. The Importance of Long-Term Stewardship (LTS)

We would like to begin our comments by emphasizing the importance of LTS to DOE's Environmental Management (EM) program. DOE needs to ensure that LTS is fully institutionalized as a clearly identifiable DOE program that is both robust and enduring. As many sites will require extensive monitoring and maintenance into the indefinite future to ensure the effectiveness of today's risk reduction activities, addressing the question of long-term stewardship correctly is of paramount importance if we are to sustain any of the benefits yielded through DOE EM efforts to date. Moving forward with remediation decisions that rely on institutional controls and other LTS measures will require that questions regarding enforcement, monitoring, technological development, and funding be addressed in a thorough fashion.

II. The Role of State Governments in LTS

The Study notes “State governments also may assume a more prominent role in managing long-term stewardship information and in promoting education and training to ensure the continuity of long-term stewardship across multiple generations.” We find the general tone concerning the role of the states in LTS to be overly constrained. Institutional controls will be imposed as part of cleanup decisions rendered by states and the EPA. Like any other aspect of a cleanup decision, institutional control must be enforceable by the environmental regulator that made the decision. The Study should therefore recognize that states will be among the primary enforcers of institutional controls. DOE should further expect that states will generally assume an active role in resolving a range of LTS issues, including the outreach and public education efforts that are necessary to ensure public support for, and involvement in, LTS planning and implementation. The states are committed to working with local and tribal governments throughout the LTS process.

III. Explicit LTS Requirements & Remediation Projects

States believe that the remedy selection process must include specified LTS criteria. While the present process does contain some LTS considerations, many important LTS elements are omitted. Without the clear inclusion of LTS considerations in the remedy selection process, it will be difficult for states to move forward with remediation decisions that are reliant on long-term institutional control. The Study should include a specific set of tasks that DOE will perform, with stakeholder participation, to establish uniform LTS criteria that can be used in the remedy selection process.

A careful evaluation of clean up to unrestricted use, which would allow for avoidance of LTS costs, should serve as the point of departure for LTS evaluation. In addition to evaluating the true costs of implementing long-term stewardship, any ROD should also analyze the legal enforceability of any proposed institutional controls. Such analysis should include a written opinion from the state attorney general that the proposed method is legally enforceable by the relevant environmental regulator against subsequent owners of the land. The analysis of institutional controls should include an evaluation of the consequences of failure of institutional or engineering controls.

IV. Funding & LTS

LTS funding issues are of critical importance. While budget appropriations may sustain current stewardship activities, continuing uncertainty around long-term funding issues raises questions around the reliability of risk reduction efforts that are dependent on LTS measures. Until long-term funding mechanisms are in place, remedies that rely on institutional control and other LTS activities cannot be viewed as legitimate long-term solutions. Without a clear funding mechanism in place to ensure continued funding, regulatory officials and stakeholders are unable to select with confidence remediation measures that would rely on LTS. The Study should outline a specific set of tasks that DOE will perform in order to facilitate the resolution of LTS funding issues at sites.

V. Technology Development & LTS

The Study states “The majority of the EM program’s science and technology effort is focused on supporting near and short term objectives, not long-term stewardship.” Significant investment in LTS technologies will be required to ensure that DOE’s obligations are effectively and efficiently fulfilled. Some areas that require additional investment can be easily identified. For example, as the Study notes, DOE is not taking the appropriate steps to assess the functional life and failure modes of subsurface barriers. The Department clearly needs to be gathering and evaluating this and other data so that it can gauge the effectiveness of various LTS technologies. More generally, DOE’s research and development agenda needs to include information management technologies to ensure the effective long-term protection of LTS information.

While some needs are readily apparent, it is of critical importance that DOE expeditiously complete its “roadmap” exercise and establish a LTS baseline against which science and technology investments can be assessed. Once this comprehensive baseline is available, investments must be carefully tailored to fulfill priorities that clearly relate to needs identified within this planning document.

VI. LTS at NNSA sites

The Study notes “the recent creation of the NNSA, with independent lines of authority within DOE, may pose additional challenges to the implementation of long-term stewardship at sites where NNSA is the landlord.” State concerns regarding LTS apply to all relevant sites, regardless of their internal DOE designation. DOE should ensure that questions regarding oversight and enforcement of LTS obligations are resolved in an expedited fashion. Additionally, DOE must take appropriate steps to provide for publicly accessible LTS information management at NNSA sites.

The Study states that the potential D&D impacts of new facilities are too speculative to evaluate in the early stages of the planning process in an EIS. We disagree. Private entities routinely develop decommissioning plans prior to constructing new facilities, and incorporate pollution prevention concepts into the design of new facilities and processes. Given the tremendous, and largely irreversible, environmental damage caused by operation of the nuclear weapons complex during its first fifty years of existence, it is imperative that DOE work harder to ensure that the weapons complex of the future does not result in additional intractable long term stewardship needs.

VII. Information Management

The Study does a good job describing the difficulties of maintaining public awareness of the need for LTS measures over the long term. It should evaluate the role that a series of “Cold War museums” could play in overcoming these difficulties. This is precisely the function of museums, and they serve it well. Such museums could be modeled after the many excellent Presidential libraries in this country, which have both museum and research facilities. By maintaining a physical presence at each site, DOE could help avert the possibility that stewardship concerns will be forgotten over time.

Thank you for the opportunity to comment on what we believe is a laudable effort to capture LTS issues across the DOE complex. If you have any questions regarding these comments, please feel free to contact me at 202/624-5370 or by e-mail at abeauchesne@nga.org.

Sincerely,

Ann M. Beauchesne

Program Director
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